

AMENDED IN ASSEMBLY AUGUST 7, 2000

AMENDED IN ASSEMBLY JUNE 12, 2000

AMENDED IN SENATE APRIL 13, 2000

SENATE BILL

No. 1618

Introduced by Senator O'Connell

*(Coauthors: Assembly Members Alquist, Kuehl, and
Thomson)*

February 22, 2000

An act to amend Sections 33352, 33353, 33354, and 35179 of, *to add Section 231.6 to*, and to repeal Section 33352 of, the Education Code, and to amend Section 1 of Chapter 151 of the Statutes of 1996, relating to interscholastic athletics.

LEGISLATIVE COUNSEL'S DIGEST

SB 1618, as amended, O'Connell. Interscholastic athletics.

Existing law requires the State Department of Education to exercise general supervision over the course of physical education in elementary and secondary schools of the state, as specified. Existing law, until January 1, 2001, describes the California Interscholastic Federation (CIF) as a voluntary organization consisting of school and school-related personnel with the responsibility for administering interscholastic athletic activities in secondary schools and sets forth legislative intent that the CIF, in consultation with the department, implement certain policies. Existing law required the CIF to report to the Legislature on its evaluation and accountability activities undertaken pursuant to those provisions on or before January 1, 1999.

This bill would extend those provisions pertaining to the CIF until January 1, 2004, and would delete obsolete, related provisions. The bill would also require that the report be made on or before January 1, 2003.

Under existing law, a person is prohibited from being subjected to discrimination on ~~the basis of, among other things, sex,~~ *various bases* in any program or activity conducted by an educational institution, as defined. The regulations implementing those provisions prescribe the procedure for filing a complaint alleging a violation of a state or federal law or regulation, which may include an allegation of unlawful discrimination. ~~Those regulations require that a complainant file a complaint not later than 6 months from the date the alleged discrimination occurred, or the date the complainant first obtained knowledge of the facts of the alleged discrimination, unless an extension is granted by the Superintendent of Public Instruction, and requires the local educational agency to complete its investigation and prepare a written decision within 60 days. Existing law authorizes local educational agencies to establish procedures for attempting to resolve complaints through mediation prior to the initiation of a formal compliance investigation, but prohibits mediation from extending the local timelines for investigation and resolving complaints at the local level unless the complainant agrees, in writing, to the extension of the timeline, and prohibits mediation from being mandatory in resolving complaints. Under existing law, a complainant may appeal a local educational agency decision to the Superintendent of Public Instruction by filing a written appeal with the superintendent within 15 days of receiving the local educational agency decision.~~

~~This bill would state the intent of the Legislature that the California Interscholastic Federation, in consultation with the State Department of Education, establish a voluntary process for school districts, a consortia of school districts, and the California Interscholastic Federation, to resolve sex discrimination complaints within 200 days following exhaustion of the school district uniform complaint process, and would prescribe related matters. The bill would not preclude a complainant from filing an appeal directly with the~~

~~Superintendent of Public Instruction upon exhausting the school district uniform complaint process.~~

This bill would require the CIF to provide information to school personnel to use in assisting parents in resolving disputes and in understanding the uniform complaint process provided by those regulations. The bill would require each educational institution to have a written policy on discrimination as prohibited, and to make that policy available in a specified manner, thereby imposing a state-mandated local program.

Existing law prohibits a voluntary interscholastic athletic association, of which any public school is a member, from discriminating against, or denying the benefits of any program to, any person on the basis of race, sex, or ethnic origin.

This bill would broaden the prohibition to include, among others, discrimination on the basis of religion, disabilities, and any basis contained in the prohibition of hate crimes.

This bill would also empower the State Department of Education to resolve complaints regarding discrimination in interscholastic athletics.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: ~~no~~ yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 231.6 is added to the Education
2 Code, to read:

1 231.6. *Each educational institution shall have a*
2 *written policy on discrimination as prohibited by this*
3 *chapter. This policy shall be made available in the same*
4 *manner as the policy on sexual harassment provided*
5 *pursuant to Section 231.5.*

6 SEC. 2. Section 33352 of the Education Code, as
7 amended by Chapter 487 of the Statutes of 1993, is
8 repealed.

9 ~~SEC. 2.—~~

10 SEC. 3. Section 33352 of the Education Code, as
11 amended by Chapter 151 of the Statutes of 1996, is
12 amended to read:

13 33352. (a) The State Department of Education shall
14 exercise general supervision over the courses of physical
15 education in elementary and secondary schools of the
16 state; advise school officials, school boards, and teachers
17 in matters of physical education; and investigate the work
18 in physical education in the public schools.

19 (b) This section shall become inoperative on January
20 1, 2006, and, as of January 1, 2004, is repealed, unless a later
21 enacted statute, which becomes effective on or before
22 January 1, 2004, deletes or extends the dates on which it
23 becomes inoperative and is repealed.

24 ~~SEC. 3.—~~

25 SEC. 4. Section 33353 of the Education Code is
26 amended to read:

27 33353. (a) The California Interscholastic Federation
28 is a voluntary organization consisting of school and
29 school-related personnel with responsibility for
30 administering interscholastic athletic activities in
31 secondary schools. It is the intent of the Legislature that
32 the California Interscholastic Federation, in consultation
33 with the State Department of Education, implement the
34 following policies:

35 (1) Give the governing boards of school districts
36 specific authority to select their athletic league
37 representatives.

38 (2) Require that all league, section, and state meetings
39 affiliated with the California Interscholastic Federation
40 be subject to the notice and hearing requirements of the



1 Ralph M. Brown Act (Chapter 9 (commencing with
2 Section 54950) of Division 2 of Title 5 of the Government
3 Code).

4 (3) Establish a neutral final appeals body to hear
5 complaints related to interscholastic athletic policies.

6 ~~(4) Establish a voluntary process for school districts, a~~
7 ~~consortia of school districts, and the California~~
8 ~~Interscholastic Federation leagues, sections, and state~~
9 ~~office to resolve gender equity complaints within 200 days~~
10 ~~following exhaustion of the school district uniform~~
11 ~~complaint process. If a complaint is not resolved to the~~
12 ~~satisfaction of the complainant, the California~~
13 ~~Interscholastic Federation shall forward the complaint to~~
14 ~~the State Department of Education within 10 days of the~~
15 ~~final appeal conducted pursuant to that process.~~
16 ~~Notwithstanding any other provision of law, a~~
17 ~~complainant shall not be precluded from filing an appeal~~
18 ~~directly with the Superintendent of Public Instruction,~~
19 ~~upon exhausting the school district uniform complaint~~
20 ~~process, and shall not be required to follow the voluntary~~
21 ~~process provided by this paragraph.~~

22 *(4) Provide information to school personnel to use in*
23 *assisting parents in resolving disputes and in*
24 *understanding the procedures of the uniform complaint*
25 *process provided by Chapter 5.1 (commencing with*
26 *Section 4600) of Division 1 of Title 5 of the California*
27 *Code of Regulations.*

28 (b) The California Interscholastic Federation shall
29 report to the Legislature and the Governor on its
30 evaluation and accountability activities undertaken
31 pursuant to this section on or before January 1, 2003. *The*
32 *State Department of Education shall report annually to*
33 *the Governor and the Legislature on all interscholastic*
34 *athletic discrimination appeals filed pursuant to Chapter*
35 *2 (commencing with Section 200) of Part 1 and the*
36 *implementing regulations contained in Chapter 5.1*
37 *(commencing with Section 4600) of Title 5 of the*
38 *California Code of Regulations. This report shall include*
39 *the number of appeals filed and resolved as well as the*
40 *number of appeals filed and unresolved.*

(c) This section shall become inoperative on January 1, 2004, and, as of January 1, 2004, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2004, deletes or extends the dates on which it becomes inoperative and is repealed.

~~SEC. 4.—~~

SEC. 5. Section 33354 of the Education Code is amended to read:

33354. (a) The State Department of Education shall have the following authority over interscholastic athletics:

(1) The department may state ~~that~~ *whether* the policies of school districts, of associations or consortia of school districts, and of the California Interscholastic Federation, concerning interscholastic athletics, are in compliance with both state and federal law.

(2) If the department states that a school district, an association, or consortium of school districts, or the California Interscholastic Federation is not in compliance with state or federal law, the department shall require the school district, association, or consortium, or the federation to adjust its policy so that it is in compliance. However, the department shall not have authority to determine the specific policy that a school district, association, or consortium, or the federation must adopt in order to comply with state and federal laws, except as provided in paragraph (4).

(3) If the department states that a school district, association, or consortium, or the federation is not in compliance with state or federal law in matters relating to interscholastic activities, and the school district, association, or consortium, or the federation does not change its policy in order to comply with these laws, the department may commence with appropriate legal proceedings against the California Interscholastic Federation, the school district or against school districts that are members of the California Interscholastic Federation or the association or consortium that the department states is in noncompliance. In a legal proceeding the court shall determine the matter de novo.

1 The department may make recommendations for
2 appropriate remedies in these proceedings.

3 (4) Notwithstanding any other provision of law, the
4 State Department of Education shall have the authority
5 to resolve *specific* complaints regarding ~~gender equity~~
6 *discrimination on any of the bases prohibited by Chapter*
7 *2 (commencing with Section 200) of Part 1 in*
8 *interscholastic athletics and to specify the specific policy,*
9 *with regard to a specific complaint, the specific action*
10 *that a school district, association, or consortium or the*
11 *federation must adopt take in order to comply with state*
12 *and federal law. The State Department of Education may*
13 *adopt regulations pursuant to Chapter 3.5 (commencing*
14 *with Section 11340) of Part 1 of Division 3 of Title 2 of the*
15 *Government Code for the purpose of providing a remedy*
16 *for noncompliance with gender discrimination laws.*

17 (b) This section shall not be construed or interpreted
18 to limit the discretion of local governing boards, or
19 voluntary associations formed or maintained pursuant to
20 subdivision (b) of Section 35179, in any policy, program,
21 or activity that is in compliance with state and federal law.

22 (c) The state law with which the policies of school
23 districts, associations, or consortia of school districts, and
24 of the California Interscholastic Federation, concerning
25 interscholastic athletics, are required to comply, in
26 accordance with this section, includes, but is not limited
27 to, any regulations issued by the State Board of Education
28 pursuant to Section 232 with regard to ~~sex~~ discrimination
29 in interscholastic athletics.

30 (d) This section shall become inoperative on January
31 1, 2006–2004, and, as of January 1, 2006–2004, is repealed,
32 unless a later enacted statute, which becomes effective on
33 or before January 1, 2006–2004, deletes or extends the
34 dates on which it becomes inoperative and is repealed.

35 ~~SEC. 5.~~

36 *SEC. 6.* Section 35179 of the Education Code is
37 amended to read:

38 35179. (a) Each school district governing board shall
39 have general control of, and be responsible for, all aspects
40 of the interscholastic athletic policies, programs, and

1 activities in its district, including, but not limited to,
2 eligibility, season of sport, number of sports, personnel,
3 and sports facilities. In addition, the board shall assure
4 that all interscholastic policies, programs, and activities in
5 its district are in compliance with state and federal law.

6 (b) Governing boards may enter into associations or
7 consortia with other boards for the purpose of governing
8 regional or statewide interscholastic athletic programs by
9 permitting the public schools under their jurisdictions to
10 enter into a voluntary association with other schools for
11 the purpose of enacting and enforcing rules relating to
12 eligibility for, and participation in, interscholastic athletic
13 programs among and between schools.

14 (c) Each governing board, or its designee, shall
15 represent the individual schools located within its
16 jurisdiction in any voluntary association of schools formed
17 or maintained pursuant to this section.

18 (d) No voluntary interscholastic athletic association, of
19 which any public school is a member, shall discriminate
20 against, or deny the benefits of any program to, any
21 ~~person on the basis of race, sex, or ethnic origin.~~ *person*
22 *on any basis prohibited by Chapter 2 (commencing with*
23 *Section 200) of Part 1.*

24 (e) Interscholastic athletics is defined as those policies,
25 programs, and activities that are formulated or executed
26 in conjunction with, or in contemplation of, athletic
27 contests between two or more schools, either public or
28 private.

29 (f) This section shall become inoperative on January 1,
30 ~~2006–2004~~, and, as of January 1, ~~2006–2004~~, is repealed,
31 unless a later enacted statute, which becomes effective on
32 or before January 1, ~~2006–2004~~, deletes or extends the
33 dates on which it becomes inoperative and is repealed.

34 ~~SEC. 6.—~~

35 *SEC. 7.* Section 1 of Chapter 151 of the Statutes of 1996
36 is amended to read:

37 Section 1. (a) The Legislature finds and declares all
38 of the following:

39 (1) The California Interscholastic Federation (CIF) is
40 a voluntary organization that was first organized in 1914.

1 It consists of school personnel that has had general
2 responsibility for administering interscholastic athletic
3 activities in high school sports and is accountable to
4 governing boards of school districts and other local
5 agencies.

6 (2) The CIF is associated with over 1,200 member
7 schools and over 400,000 girls and boys. Through
8 participation in athletic-centered interscholastic
9 activities, high school pupils in California develop values,
10 attitudes, and skills for personal growth.

11 (3) The mission of the CIF is to fulfill its commitment
12 to educating California's youth for a better tomorrow and
13 to work in partnership with the entire community to
14 assure equity and provide services, opportunities, and
15 leadership necessary to establish and maintain quality
16 high school athletic programs.

17 (4) The CIF is governed by state and federal statutes
18 regarding athletics and complies with State Board of
19 Education guidelines regarding discrimination and
20 gender equity. In addition, the CIF is governed by its own
21 constitution and corresponding bylaws that are
22 developed and approved by a 30-member federated
23 council representing all facets of the education
24 community.

25 (5) In 1994, the CIF completed a statewide strategic
26 plan to examine policies and practices and in 1996, a
27 report was presented to the Legislature.

28 (b) This act shall be known and may be cited as the
29 California Interscholastic Athletic Act.

30 *SEC. 8. Notwithstanding Section 17610 of the*
31 *Government Code, if the Commission on State Mandates*
32 *determines that this act contains costs mandated by the*
33 *state, reimbursement to local agencies and school*
34 *districts for those costs shall be made pursuant to Part 7*
35 *(commencing with Section 17500) of Division 4 of Title*
36 *2 of the Government Code. If the statewide cost of the*
37 *claim for reimbursement does not exceed one million*

1 *dollars (\$1,000,000), reimbursement shall be made from*
2 *the State Mandates Claims Fund.*

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